

REMARKS

After entry of this amendment, claims 1-75 will be pending for the Examiner's review and consideration. Reconsideration and allowance of the present application in view of the following remarks and attached Terminal Disclaimer is respectfully requested.

This amendment responds to the office action mailed October 4, 2004. In the office action the Examiner:

- rejected claims 1-75 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-41 in United States Patent No. 6,726,469 ("the '469 Patent");
- rejected claims 1-75 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-52 in United States Patent No. 6,491,515 ("the '515 Patent");
- rejected claims 1-75 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-52 in United States Patent No. 6,488,492 ("the '492 Patent");
- provisionally rejected claims 1-75 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-19 in co-pending application No. 10/788,195 ("the '195 Application"); and
- provisionally rejected claims 1-75 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-69 in co-pending application No. 10/398,975 ("the '975 Application").

As an initial matter, it is respectfully submitted that application No. 10/398,975 is incorrect as application No. 10/398,975 corresponds to an apparatus and method for processing workpieces. It is believed that the Examiner meant application No. 10/389,975.

A terminal disclaimer for the '469 Patent, '515 Patent, '492 Patent, '195 Application and '975 Application is submitted herewith on the condition that only the terminal part of any patent granted on the above-identified patent application which extends beyond the expiration date of the '469 Patent, '515 Patent, '492 Patent, '195 Application and '975 Application is hereby disclaimed. Nothing here is to be deemed as an admission with regards to the validity of any claim, and in particular is not an admission that the claims are obvious in view of the above-identified patent and co-pending patent applications. *See Ortho Pharmaceutical Corp. v. Smith*, 959 F.2d 936 (Fed. Cir. 1992).

In light of the above amendments and remarks, it is respectfully submitted that claims 1-75 are now in condition for allowance, and the Examiner is respectfully requested to reconsider this application with a view towards allowance. The Examiner is invited to call the undersigned attorney at 212-326-7883, if a telephone call could help resolve any remaining issues.

Date: January 4, 2005

Respectfully submitted,

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Enclosure